

**THE TENNESSEE REGULATORY AUTHORITY**

**AT NASHVILLE, TENNESSEE**

December 11, 2001

IN RE:

BLUEGREEN VACATIONS UNLIMITED, INC

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DOCKET NO. 01-00642

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**ORDER APPROVING SETTLEMENT AGREEMENT**

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This matter came before the Tennessee Regulatory Authority ("Authority" or "TRA") at a regularly scheduled Authority Conference held on August 7, 2001, for consideration of a proposed Settlement Agreement between the Consumer Services Division of the TRA (the "CSD") and Bluegreen Vacations Unlimited, Inc. for violations of the Tennessee Do-Not-Call Telephone Sales Solicitation statutes, Tenn. Code Ann. § 65-4-401 *et seq.* The proposed Settlement Agreement is attached hereto as Exhibit A.

Tenn. Code Ann. § 65-4-404 and Tenn. Comp. R. & Regs. 1220-4-11-.07(1) prohibit persons and entities from knowingly making or causing to be made telephone sales solicitation calls to any residential subscribers in this state who have given timely and proper notice to the Authority of their objection to receiving telephone solicitations. Tenn. Code Ann. § 65-4-405(f) authorizes the Authority to initiate proceedings relative to violations of the Do-Not-Call statutes and the TRA rules and regulations (Tenn. Comp. R. & Regs. 1220-4-11-.01 *et seq.*) promulgated pursuant to the Do-Not-Call statutes. "Such proceedings may include without limitation proceedings to issue a cease and desist order, to issue an order imposing a civil penalty up to a maximum of two thousand dollars (\$2,000) for each knowing violation and to seek additional relief in any court of competent jurisdiction." Tenn. Code Ann. § 65-4-405(f).

On June 5 and June 13, 2001, the CSD received two (2) separate complaints against Bluegreen Vacations Unlimited, Inc. from Tennessee consumers whose residential telephone numbers were properly and timely registered on the Tennessee Do-Not-Call Register. Bluegreen Vacations Unlimited, Inc. faced a maximum civil penalty of four thousand dollars (\$4,000) for these two (2) violations.

The proposed Settlement Agreement was negotiated as the result of the CSD's investigation into the complaints against Bluegreen Vacations Unlimited, Inc. In negotiating the terms and conditions of this Settlement Agreement, the CSD took into consideration Tenn. Code Ann. § 65-4-116(b), which provides:

In determining the amount of the penalty, the appropriateness of the penalty to the size of the business of the person, firm or corporation charged, the gravity of the violation and the good faith of the person, firm or corporation charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, may be deducted from any sums owing by the state to the person, firm or corporation charged or may be recovered in a civil action in the courts of this state.

Bluegreen Vacations Unlimited, Inc. is located in Boca Raton, Florida, and has been registered as a telephone solicitor with the TRA since July 13, 2000. Bluegreen Vacations Unlimited, Inc. has no known history of violating the statutes and rules enforceable by the Authority. The CSD's investigation revealed that the two (2) solicitations took place over a short period of time and that Bluegreen Vacations Unlimited, Inc. has not engaged in a pattern of continued violations of Tenn. Code Ann. § 65-4-401 *et seq.* Upon receiving notice of the alleged violations, Bluegreen Vacations Unlimited, Inc. cooperated fully with the CSD's investigation of the above mentioned complaints.

As a part of this Settlement Agreement, Bluegreen Vacations Unlimited, Inc. agrees to implement measures, as outlined in Exhibit A, to prevent similar occurrences in the future. In

addition, Bluegreen Vacations Unlimited, Inc. will pay to the Authority the amount of four thousand dollars (\$4,000) within thirty (30) days of the date of the Authority's approval of the Settlement Agreement.

An attorney representing Bluegreen Vacations Unlimited, Inc., Randi Tomkins, Esq., participated telephonically during the Authority Conference on August 7, 2001. Following a discussion with the parties and a review of the Settlement Agreement, the Directors voted unanimously to accept and approve the Settlement Agreement.

**IT IS THEREFORE ORDERED THAT:**

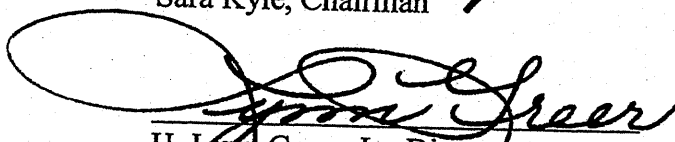
1. The Settlement Agreement, attached hereto as Exhibit A, is accepted and approved and is incorporated into this Order as if fully rewritten herein;
2. The amount of four thousand dollars (\$4,000) shall be paid by Bluegreen Vacations Unlimited, Inc. into the Public Utilities Account of the TRA no later than thirty (30) days from the date the Authority approves the Settlement Agreement;<sup>1</sup>
3. Upon payment of the amount of four thousand dollars (\$4,000), Bluegreen Vacations Unlimited, Inc. is excused from further proceedings in this matter, provided that, in the event of any failure on the part of Bluegreen Vacations Unlimited, Inc. to comply with the

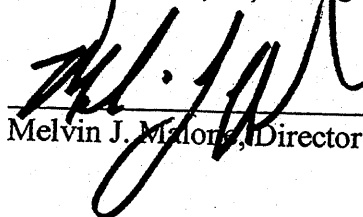
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<sup>1</sup> Bluegreen Vacations Unlimited, Inc. paid the total sum of \$4,000 into the Public Utilities Account of the TRA on August 9, 2001.

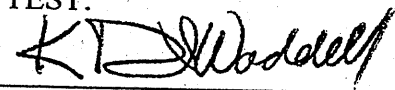
terms and conditions of the Settlement Agreement, the Authority reserves the right to re-open this docket.

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary